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DOCKET NO. P-999/M-97-506

ORDER SETTING FURTHER AREA CODE RELIEF, REQUIRING TRAFFIC STUDIES,
AND CLARIFYING NUMBER CONSERVATION EFFORTS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of a Relief Plan for the Exhaust
of the 612 Area Code

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PROCEDURAL HISTORY

On November 13, 1997, the Commission issued its ORDER ESTABLISHING AREA CODE RELIEF PLAN, SETTING POLICIES FOR NUMBER CONSERVATION, AND ESTABLISHING TASK FORCE. In that Order, the Commission chose a three-way geographic split to provide area code relief for the (612) area code. The Commission divided the area code relief plan into Phase One and Phase Two:

At this time, the Commission will split the (612) area code between Minneapolis and its suburbs and St. Paul and its suburbs. In approximately mid-1999, the Commission will meet again to determine if it is necessary to implement the second phase of the plan--the introduction of a second new area code. Although the exact configuration of this second phase will be decided at that time, the Commission expects that the second split will separate Minneapolis and its nearby suburbs to the south from the rest of the western portion of the current (612) area. The Commission will determine by January 1, 2000, if the second phase is necessary, or if number conservation efforts or other changes have made numbering relief unnecessary at that time. If the Commission determines that the second phase is necessary, it will be implemented by January 1, 2001.

Order at p. 10.

The Commission set a permissive dialing phase until January, 1999, to implement Phase One of the split. The Commission also established a number pooling task force to explore that method of number conservation. The Commission directed the task force to provide a report and recommendations by July 1, 1998, and required the Numbering Plan Administrator to implement number pooling in the existing (612) area by March 31, 1999.

On November 25, 1997, the Commission issued its ORDER DECLARING JEOPARDY STATUS AND SETTING PROCEDURES FOR ADDRESSING IMMEDIATE NUMBERING ISSUES. In that Order, the Commission declared a jeopardy status for the (612) area code and directed the Numbering Plan Administrator to call an industry meeting to develop a central office (CO) code allocation plan.

On January 26, 1998, the Commission issued its ORDER REAFFIRMING NOVEMBER 13, 1997 ORDER WITH ONE MODIFICATION, GRANTING REQUESTS FOR CLARIFICATION, AND ACCEPTING INDUSTRY'S PROPOSED JEOPARDY ALLOCATION PLAN. In that Order, the Commission accepted the industry's plan to allocate the 61 available CO codes through a monthly lottery beginning in January, 1998, and ending in November, 1998. Under the plan, each service provider would submit a primary request for a code if the provider could demonstrate that it would exhaust its available numbers within six months. Providers could also submit secondary requests. Seven CO codes would be assigned each month by lottery to the primary requesters (one of which must be a new provider if such a provider had placed a request that month). Unused codes, if any, would be used to fulfill secondary requests; if any still remained, they would be returned to the general pool. Service providers whose requests were not granted could leave their names in the pool for a second month before they must renew their request.

On August 12, 1998, the Commission issued its ORDER ACCEPTING TASK FORCE REPORT, REQUIRING FURTHER REPORTS, AND REQUIRING THE USE OF SEQUENTIAL BLOCK USAGE. In that Order, the Commission accepted the number pooling task force's July 2, 1998 interim report. The Commission also required the task force to file two further informational reports on November 1, 1998, and March 1, 1999. The Commission adopted the task force's recommendation to require service providers in the (612) and (651) area codes to use sequential block usage in assigning numbers, in order to lay the foundation for effective number pooling in the future.¹

On July 24, 1998, the Numbering Plan Administrator informed the Commission by letter that a second industry jeopardy allocation conference call had been conducted. The letter stated that the industry had agreed that the current monthly number allocation process should continue until Phase Two of the (612) area code split is completed in approximately January of 2001. The Numbering Plan Administrator noted that Phase One of the area code split is currently freeing approximately 180 CO codes for reassignment in the (612) area code. In order for the 180 CO codes to provide relief for a full 24 months (i.e. from January, 1999, to January, 2001), the industry must continue to activate only seven new codes per month.

¹ Thousand block sequential usage is used in anticipation of the implementation of thousand block number pooling. Thousand block sequential usage requires providers to assign numbers from a single thousand block, until that block is substantially used, and then to move sequentially through further thousand blocks. With the implementation of thousand block number pooling, sequential number assignment should maximize the number of uncontaminated blocks (i.e. blocks with a small percentage of assigned numbers) available for pooling.

On September 14, 1998, the Commission issued a notice soliciting comments on the industry recommendation to continue the current lottery allocation process for the (612) area code until Phase Two is fully implemented in approximately January, 2001.

On September 28, 1998, the Federal Communications Commission (FCC) issued a Memorandum Opinion and Order and Order on Reconsideration. In that Order the FCC limited the authority of state commissions to implement CO code allocations. The FCC stated that a state commission facing CO code jeopardy may only order CO code rationing if the plan is developed in conjunction with an area code relief decision and if the industry has been unable to reach consensus on a rationing plan. In order to impose a CO code rationing plan, a commission must have decided on a specific form of area code relief and established an implementation date for the relief.

The FCC also stated that it intends to conduct a rulemaking regarding number pooling conservation efforts; it therefore declined to delegate to state commissions the authority to order number pooling. The FCC granted state commissions limited authority to conduct number pooling experiments under certain conditions.

On October 2, 1998, US WEST Communications, Inc. (US WEST) filed comments expressing disagreement with the industry jeopardy allocation plan and urging the Commission to modify it. US WEST noted that it is the primary service provider for approximately 90 percent of the access lines in the (612) area code. US WEST stated that its demand for CO codes exceeds the codes that can be rationed to it under the current plan, which allows only one primary code request per month. US WEST urged the Commission to allow telephone companies to request the number of codes necessary to meet consumer demand. A carrier should be allowed to request an assigned code only if it can demonstrate that it will exhaust its available telephone numbers within three months (instead of the current six months). According to US WEST, a carrier's request should remain in the lottery pool until it is either selected or removed by the carrier.

On October 2 and 12, 1998, MCI Worldcom, Inc. and MCI Telecommunications Corporation (MCI) and AT&T Communications of the Midwest, Inc. (AT&T) filed joint comments regarding the CO allocation plan and reply comments to US WEST. In light of the requirements of the FCC Order, MCI/AT&T recommended that the Commission suspend the lottery when Phase One of the (612) area code split is implemented (that is, by January 10, 1999). The Commission and the Numbering Plan Administrator should begin a process to formalize a plan for further (612) area code relief and to establish a firm schedule for relief. MCI/AT&T recommended that the Commission remove the current prohibition against porting numbers from and to the areas of Minneapolis, Richfield, and Fort Snelling, because such a restriction now falls outside the FCC's perceived scope of state regulatory authority. Finally, MCI/AT&T urged the Commission to consider US WEST's request for a revised CO allocation plan to be outside the scope of state regulatory authority and therefore effectively moot.

On October 19, 1998, the Department of Public Service (the Department) filed comments.

On December 1, 1998, the Commission met to consider the industry request to continue the jeopardy allocation plan and to consider the effect of the FCC's Order on the Commission's area

code relief and number conservation efforts.

FINDINGS AND CONCLUSIONS

I. EFFECTS OF INDUSTRY AND FCC ACTIONS ON THE COMMISSION'S AREA CODE RELIEF EFFORTS

The long history of (612) area code numbering issues began in 1995, when the industry informed the Commission that, absent intervention, the (612) area code faced an imminent CO code shortage. Since that time, the Commission has made major efforts to forestall area code exhaust, to minimize disruption to consumers, and to educate the public on the area code issues. Throughout its history of area code relief proceedings, the Commission has conducted a three-pronged effort. First, the Commission has implemented direct (612) area code relief, starting with the creation of the (320) area code in 1995; second, the Commission has facilitated the fair allocation of remaining CO codes by declaring a jeopardy status and refining and approving an industry jeopardy allocation plan; and third, the Commission has expedited number conservation efforts by convening a number pooling task force and requiring sequential number block usage.

The telephone industry and the FCC have not always taken actions consistent with the Commission's vigorous efforts to prevent area code exhaust. The industry has sometimes failed to plan sufficiently for the explosion of access lines or to coordinate efforts to facilitate an equitable and efficient allocation of available codes. Today, the fact that CO codes would soon exhaust without strict rationing is due as much to past allocation inefficiencies as to a true CO code shortage. Even as the (612) area code faces the prospect of CO code jeopardy, absent intervention, the industry has failed to reach complete agreement on an ongoing jeopardy allocation plan.

While pursuing the laudatory goals of fair industry competition and a unified national numbering strategy, the FCC has sometimes promulgated orders and rules that hamper state regulatory area code relief efforts. In order to ensure a level playing field for new entrants, the FCC made ten-digit dialing mandatory for overlay relief efforts--thus in practicality rendering that option less viable. The FCC precluded the option of assigning CO codes by mode of use, such as the burgeoning area of wireless service. Now, the FCC's September 28 Order has significantly limited state commission number allocation/rationing efforts--at a time when those efforts are essential to the prevention of further CO code exhaust--and has created barriers to state number pooling initiatives.

II. THE COMMISSION'S SOLUTION TO ISSUES OF AREA CODE RELIEF

Faced with an area code numbering situation which has been exacerbated by industry inaction and FCC restrictions, the Commission is determined to pursue its goal of achieving an overall numbering policy tailored for the best interests of consumers, industry, and state regulation.

That goal requires the Commission to devise an area code relief plan that is logical and workable, that is concrete enough to satisfy FCC standards for state rationing, that provides notice and information to consumers and industry, and that is flexible enough to allow for further study and for Commission consideration of consumer and industry input. In order to

prevent the present prospect of CO code exhaust from moving to reality, the Commission must propose the area code relief plan immediately.

The Commission will order the following plan for area code numbering relief:

- the Commission will implement Phase II of the (612) area code relief plan by separating Minneapolis and Richfield (by municipal boundaries) and Fort Snelling (by wire center) from the remainder of the new (612) area code (i.e., what remains of the (612) area code after the split off of the (651) area code) and assigning Minneapolis, Richfield, and Fort Snelling to a new (952) area code
- the permissive dialing period for Phase II will begin in January, 2000; the new (952) area code will formally go into effect in January, 2001
- the Commission will require the industry to reconvene to discuss the relief plan outlined in this Order and, by March 5, 1999, to submit any consensus modifications and comments to the Commission's area code relief plan to the Commission for reconsideration
- in order to accommodate the lengthy period allowed for reconsideration in this matter, the Commission will waive the usual deadlines for reconsideration requests
- the Commission orders the industry to conduct traffic studies of the calling patterns into and out of the proposed three area codes (i.e. 612, 651, and 952) and to submit the results of those studies to the Commission by February 16, 1999
- the Commission orders the current, ongoing industry plan for prefix rationing/allocation to continue through the implementation of Phase II
- the Commission delegates to the Executive Secretary the authority to arrange at least two public meetings on the proposed area code relief plan to be held prior to March 5, 1999

The proposed plan fulfills several important functions. First, because it is a specific area code relief plan with set implementation dates, it fulfills the FCC criteria to allow state commission number rationing in a time of impending area code jeopardy.² Second, it puts the public and the industry on notice that further area code relief is necessary and that the Commission at this time plans a further geographic split. Third, it provides a set framework upon which further study and input from participants can be based. Fourth, the projected permissive dialing and implementation time frames allow sufficient time for consumers and industry to prepare for the next phase of area code relief.

The Commission is extending the period for possible reconsideration requests in order to allow sufficient time for traffic studies to provide important information regarding actual calling patterns and the likely effects of the future geographic split. As the Commission stated in its September 3, 1997 Order requiring traffic studies prior to the original (612) area code decision,

² The other criterion for Commission action--failure of the industry to agree upon an allocation plan--has also been fulfilled in this case.

Further traffic data should provide essential pieces of information for the Commission's consideration: who is presently calling whom; to what extent (if any) do current dialing patterns reveal important communities of interest; how much disruption various alternative [relief methods] will bring; and the extent of relief the [methods] would provide.

The Commission is also extending the reconsideration time in order to allow input from interested parties. The Commission will conduct at least two public meetings on the proposed plan. Through these meetings and the industry discussion sessions, the Commission expects to garner important feedback from consumers and industry representatives alike.

A lengthy reconsideration period is only useful if the Commission remains open to new facts or arguments. Therefore, while the Commission at this time finds that its proposed relief plan is the most logical and workable plan available, the Commission remains open to the possibility, upon reconsideration, that an adjusted "carve out" area may be preferable, or even that a delayed overlay or other overlay may in the end prove the best choice for further area code relief.³

Finally, the Commission notes that the proposed plan will not remove the prohibition against porting numbers into or out of Minneapolis, Fort Snelling, or Richfield. The Commission disagrees with MCI/AT&T's contention that the continued prohibition is beyond the Commission's authority. The FCC has clearly given state commissions the authority to select and implement area code relief plans. The Commission has responded to the projected jeopardy situation by proposing Phase Two of the (612) relief plan, which would carve out Minneapolis, Fort Snelling, and Richfield from the remainder of the (612) area code. Porting numbers across those boundaries would significantly weaken the plan, resulting in a hybrid situation which would lack the benefits of either an overlay or a geographic split. Although the Commission has stated that it remains open to the possibility of a modification of the proposed plan upon reconsideration, the Commission believes at this time that Phase II, as proposed, will remain the most logical and workable plan. The Commission will not allow the porting of numbers to weaken or dilute the plan.

³ An overlay would layer the new (952) area code over the existing (612) area. A delayed overlay would layer the (651) area code over the existing (612) area and add the (952) area code to the same geographic area when CO codes in the (651) area code exhaust.

III. FURTHER NUMBER CONSERVATION EFFORTS

A. The Number Pooling Task Force

In its August 12, 1998 Order, the Commission made the following determination regarding the ongoing efforts of the number pooling task force:

The Commission will therefore adopt the task force recommendation to extend the life of the task force, to accept the July 2, 1998 task force report as an interim report, and to require two further task force reports, to be filed by November 1, 1998, and March 1, 1999. The November 1, 1998 report should cover national number pooling activities, including the NANC Numbering Resource Optimization Task Force report to the FCC and the INC number pooling assignment guidelines (if available at the time of the report). The March 1, 1999 report should cover the thousand block pooling trial in the (847) Illinois area code, including information on the effectiveness of Release 1.4, and any other state number pooling trials.

Since the August 12 Order, the issuance of the FCC's September 28, 1998 Order has impacted the Commission's treatment of the number pooling process. In its Order, the FCC stated that it intends to conduct a rulemaking regarding number pooling conservation efforts; it therefore declined to delegate to state commissions the authority to order number pooling. The FCC granted state commissions authority to conduct number pooling *experiments* if the experiments were in conformity with previous FCC decisions and if carrier participation in the trials were voluntary. The FCC encouraged state commissions contemplating a number pooling trial to request a limited delegation of authority from the FCC. The state commissions should present their proposals to the North American Numbering Council (NANC) first, then to the FCC for the proposed delegation of authority.

Given the impact of the FCC's ruling, the Commission must decide what further direction it should give the number pooling task force.

In previous Orders, the Commission has found that it must vigorously pursue any reasonable number conservation methods in order to avoid the disruption of area code number exhaust. The Commission has noted that number pooling is likely to be a cornerstone of number conservation activities. The Commission has also found that convening a number pooling task force is the best way to coordinate and facilitate industry and regulatory efforts toward the goal of achieving effective number pooling.

Because these findings still hold true, the Commission will continue to require the number pooling task force to submit its previously assigned reports. Those reports--once due November 1, 1998 and March 1, 1999--will now be due February 1, 1999, and May 1, 1999.

The Commission will carefully study the recommendations of the task force before developing a trial plan to implement thousand number block pooling. Once the Commission has developed a plan, the Commission will conform to the FCC's Order by presenting the proposal to the NANC. Assuming the NANC recommends approval of the Commission's number block pooling proposal, the Commission will then present the plan to the FCC, along with a request for a limited delegation of authority to implement the proposal.

B. Sequential Block Usage

In its August 12, 1998 Order, the Commission made the following determination regarding the implementation of sequential block usage:

The Commission will also adopt the task force recommendation to require service providers in the (612) and (651) area codes to use sequential block usage in assigning numbers. This measure seems a sensible means of easing the future implementation of thousand block number pooling.

In the FCC's September 28 Order, however, the FCC limited state commission authority over number pooling to voluntary plans implemented on a trial basis. Since sequential block usage is part and parcel of number pooling issues, the FCC is presumably stating that sequential block usage must also be voluntary and not state-mandated.

In order to conform to the FCC's Order, the Commission will modify its previous decision on sequential block usage to make this measure voluntary for Minnesota service providers.

ORDER

1. The Commission orders the implementation of the following area code relief plan for the (612) area code:
 - a. The Commission will implement Phase II of the (612) area code relief plan by separating Minneapolis and Richfield (by municipal boundaries) and Fort Snelling (by wire center) from the remainder of the new (612) area code (i.e., what remains of the (612) area code after the split off of the (651) area code) and assigning Minneapolis, Richfield, and Fort Snelling to a new (952) area code.
 - b. The permissive dialing period for Phase II will begin in January, 2000; the new (952) area code will formally go into effect in January, 2001.
2. The Commission requires the industry to reconvene to discuss the relief plan outlined in this Order and, by March 5, 1999, to submit any consensus modifications and comments to the Commission's area code relief plan to the Commission for reconsideration.
3. The Commission waives the deadlines for reconsideration to allow requests for reconsideration to be filed by March 5, 1999.
4. The Commission requires the industry to conduct traffic studies of the calling patterns within, into and out of the proposed three area codes (i.e. 612, 651, and 952) and to submit the results of those studies to the Commission by February 16, 1999.
5. The Commission orders the current, ongoing industry plan for prefix rationing/allocation to continue through the implementation of Phase II.
6. The Commission delegates to the Executive Secretary the authority to arrange at least

two public meetings on the proposed area code relief plan, to be held prior to March 5, 1999.

7. The Commission continues to require the number pooling task force to file the reports required in the August 12, 1998 Order. The deadlines for those reports are extended to February 1, 1999, and May 1, 1999.
8. The Commission reconsiders the provision of its August 12, 1998 Order that required service providers in the (612) and (651) area codes to use sequential block usage in assigning numbers. The Commission now orders sequential block usage to be on a voluntary basis.
9. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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